

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

JANUARY 20, 1999

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Richard Carpenter, Vice President
Lorrie I. Ward, Member
Ron Alvarado, Member

2. REPORT OF THE EXECUTIVE OFFICER

The Board was advised of the following:

- A. The Board President and the Executive Officer met and briefed Agency Secretary Aileen Adams on the responsibilities of the Board.
- B. Armand Burruel has been appointed Chief of the Appeals Division. Armand will report on February 1, 1999.
- C. The Little Hoover Commission plans to release its report on the State's human resources system on January 28, 1999 following a press conference.
- D. The Governor's budget contains an appropriation to develop an automated appeals tracking system.

- E. The audit of the Pilot Program in the Department of Consumer Affairs will begin in two weeks.
- F. George Thomas, a consultant, will assist the Board in developing performance standards and restructuring processes in the Appeals Division.

3. REPORT OF THE CHIEF COUNSEL

The Chief Counsel reported on:

Litigation

- A. Rice v. SPB/CDC - This was a case in which the Administrative Law Judge reduced a demotion to a temporary demotion. Judge Bond granted a writ remanding the case to the Board and Commanding the Board to set aside its decision on the issue of penalty and to reconsider the issue of penalty in light of the court's statement of decision. We have been informed that the Department of Corrections is considering an appeal.

Other

- A. IUOE challenge to Caltrans contracts - Case was referred by Executive Officer for hearing. The hearing was originally scheduled for February 16, 1999 and has been rescheduled now for March 1, 1999, the Administrative Law Judge having granted the parties' request for a continuance

4. REPORT ON LEGISLATION

The Board was advised of the following:

- A. Walter Vaughn and Judy Balmain have been meeting with the various unions to discuss the Board's proposed legislative package.
- B. An omnibus bill is in legislative counsel, it is unbacked in order to meet the legislative deadline. I will now seek an author for introduction of the proposed legislation.
- C. Meetings continue to take place with the new legislators and their staff.

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF JANUARY 5, 1999

ACTION: Adopted on January 20, 1999.

VOTE: Bos, Carpenter, Ward - Aye.

6. ADMINISTRATIVE LAW JUDGE CASES

On January 20, 1999, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Carpenter, Ward - Aye.

REJECTED AND REMANDED DECISIONS

ROBERT McCUTCHAN, CASE NO 97-2291

Appeal from dismissal

Department of the Youth Authority

Proposed Decision rejected by Board and remanded to ALJ

ACTION: Dismissal Modified to 1-Year Suspension

DENNIS K. WILLIAMS, CASE NO. 98-2262

Appeal from rejection

Associate Governmental Program Analyst

Department of Rehabilitation

ACTION: Administrative Law Judge's proposed decision

rejected by Board. Board to Decide Case Itself

CHIEF COUNSEL RESOLUTION

RAY LEE, Administrative Charge No.'s E98-99 E-0144-00me and 370-98-9641

Discrimination Complaint

Department of Water Resources

ACTION: Board Adopted Resolution Approving a Settlement

PROPOSED DECISIONS

CHRISTINE ACTIS-PURTEE, CASE NO. 98-2921

Appeal from constructive demotion

California State University at Northridge

ACTION: Appeal Dismissed

ROBERT E. CLAYTON, CASE NO. 98-2486

Appeal from dismissal
Department of Social Services
ACTION: Dismissal Sustained

PEGGY S. FURLow, CASE NO. 98-3005
Appeal from 5 percent reduction in Salary for 6 months
Department of Corrections
ACTION: Reduction in Salary Revoked

KIM KURIHARA, CASE NO. 98-0602
Appeal from dismissal
Department of Developmental Services
ACTION: Dismissal Sustained

LIDDON LEVINE, CASE NO. 98-3661
Appeal from rejection
State Compensation Insurance Fund
ACTION: Rejection Affirmed and Appeal Denied

JACQUELYN G. MCGARVER, CASE NO. 98-2560
Appeal from 5 percent reduction in Salary for 6 months and
redirection
Department of Corrections
ACTION: Reduction in Salary and Redirection Revoked

JERRY MADRUGA, JR., CASE NO. 98-2566
Appeal from 5 percent reduction in Salary for 3 months
Department of Corrections
ACTION: Reduction in Salary Sustained

PATRICK L. METCALF, CASE NO. 98-0505
Appeal from dismissal
Department of Perks and Recreation
ACTION: Dismissal Sustained

ROLAND S. MONTEMAYOR, CASE NO. 98-2547
Appeal from rejection
Department of Corrections
ACTION: Rejection Affirmed and Appeal Denied

DONALD R. REVELS, CASE NO. 98-3493
Appeal from official reprimand
Department of the Youth Authority
ACTION: Official Reprimand Sustained

NASIO RIVAS, CASE NO. 98-3982

Appeal from dismissal
Department of Corrections
ACTION: Dismissal Sustained

REGINALD C. SMITH, CASE NO. 98-4338
Appeal from official reprimand
Department of Corrections
ACTION: Official Reprimand Sustained

SANDRA TRIPP, CASE NO. 97-3900
Appeal from dismissal
Department of Corrections
ACTION: Dismissal Modified to 90 Working day Suspension

PETITIONS FOR REHEARING

DANIEL P. BRESNAHAN, CASE NO. 98-2405
Appeal from demotion
California Highway Patrol
ACTION: Appeal withdrawn based upon a letter from Mr.
Bresnahan's counsel dated 12/19/98

CHERYLENE A. FOX, CASE NO. 98-0257
Appeal from dismissal
Department of Consumer Affairs
ACTION: Petition for rehearing filed by Appellant Denied

ROBERT S. FRENCH, CASE NO. 98-1333
Appeal from dismissal
Department of Transportation
ACTION: Petition for rehearing filed by Respondent Denied

ROBERT HEAGY, CASE NO. 97-5234
Appeal from reduction in salary for 12 months
Department of Corrections
ACTION: Petition for rehearing filed by Appellant Denied

JOSEPH M. HOEY, CASE NO. 98-0308
Appeal from dismissal
Department of California Highway Patrol
ACTION: Petition for rehearing filed by Appellant Denied

BRYAN GAVIN MONTOMERY, CASE NO. 97-4186
Appeal from dismissal
Department of Forestry and Fire Protection
ACTION: Petition for rehearing filed by Appellant Denied

HEIDI T. SALERNO, CASE NO. 98-3015

Appeal from informal reprimand

Department of Justice

ACTION: Petition for rehearing filed by Appellant Denied

YVONNE M. VILLANUEVA, CASE NO. 97-3061

Appeal from dismissal

Department of Corrections

ACTION: Petition for rehearing filed by Appellant Granted

CHARLES WILLIAMS, CASE NO. 98-0946

Appeal from reduction in salary for 5 months

Department of Transportation

ACTION: Petition for rehearing filed by Appellant Denied

DERRICK WILLIAMS, CASE NO. 96-3113

Appeal from 20 working days suspension

Department of California Highway Patrol

ACTION: Petition for rehearing filed by Appellant Denied

STUART C. CHASE, CASE NO. 98-1440

Appeal from demotion

Department of Motor Vehicles

ACTION: Petition for rehearing filed by Appellant Denied

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION. (See pages 17-20)

8. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On January 20, 1999, the Board adopted the following decisions
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.
VOTE: Bos, Carpenter, Ward - Aye.

- A. MARK AROS, Case No. 97-5212

The appeal of Mark Aros from the action of the
Department of Motor Vehicles to withhold his name from
certification to the eligible list for Motor Vehicle
Field Representative.

ACTION: DENIED

- B. WILLIAM BLACK, Case No. 98-0916

The appeal of William Black from the action of the Department of Corrections to withhold his name from certification to the eligible list for Correctional Officer.

ACTION: DENIED

- C. THOMAS CASE, Case No. 97-3852
The appeal of Thomas Case from the action of the Department of Corrections to withhold his name from certification to the eligible list for Correctional Officer.

ACTION: DENIED

- D. LUIS A. CEJA, Case No. 98-0645
The appeal of Luis Ceja from the action of the Department of Corrections to withhold his name from certification to the eligible list for Correctional Officer.

ACTION: GRANTED

- E. RUDY FLORES, Case No. 98-0512
The appeal of Rudy Flores from the action of the Department of Corrections to withhold his name from certification to the eligible list for Correctional Officer.

Action: DENIED

- F. MICHELLE SMITH, Case No. 98-0499
The appeal of Michelle Smith from the action of the Department of Corrections to withhold his name from certification to the eligible list for Correctional Officer.

ACTION: DENIED

WITHHOLD DENIAL CASES

- * ANDREW J. OAKES, Case No. 98-2744
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- * VICTOR A. SCHULTZ, Case No. 98-2776
Classification: Correctional Officer
ACTION: DENIED

- * GARY POWELL, Case No. 98-2777
Classification: Correctional Officer
ACTION: DENIED
- * YOLANDA M. MORALES, Case No. 98-2828
Classification: Correctional Officer
ACTION: DENIED
- * DAVID WHEELER, Case No. 98-2809
Classification: Correctional Officer
ACTION: DENIED

DISMISSED CASES

- * MICHAEL DELUCA, Case No. 98-4564
Classification: Licensing-Registration Examiner
ACTION: DISMISSED - Department withdrew action.

9. MEDICAL APPEALS

On January 20, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Ward - Aye.

- A. THERESA CHERVANIK, Case No. 98-3281
The appeal of Theresa Chervanik from the Department of Mental Health medically disqualifying her from employment as a Hospital Peace Officer.

ACTION: DENIED
- B. RALPH GARCIA, Case No. 97-4275
The appeal of Ralph Garcia from the Department of Corrections medically disqualifying him from employment as a Correctional Officer.

ACTION: DENIED
- C. DERRICK MAY, Case No. 97-2514
The appeal of Roberta Schwarz from the Department of Social Services' denial of her reasonable accommodation as a Licensing Program Analyst.

ACTION: DENIED
- D. JERRY CAGLE, Case No. 98-4696
Psychological disqualification.

ACTION: GRANTED

- E. VICTOR DAVIS, Case No. 98-4636
Psychological disqualification.

ACTION: GRANTED

- F. DIANA EVERETT, Case No. 98-4616
Psychological disqualification.

ACTION: GRANTED

- G. JOSEPH LEWIS, Case No. 98-4621
Psychological disqualification.

ACTION: GRANTED

- H. MICHAEL QUIROZ, Case No. 98-4698
Psychological disqualification.

ACTION: GRANTED

- I. STEVEN RODRIGUEZ, Case, No. 98-4697
Psychological disqualification.

ACTION: GRANTED

- J. ALEX CACAYURAN, Case No. 98-4884
Psychological disqualification.

ACTION: GRANTED

- K. JOHN SMITH, Case No. 98-4883
Psychological disqualification.

ACTION: GRANTED

- L. JOHN BAUTZ, Case No. 98-4885
Psychological disqualification.

ACTION: GRANTED

10. MERIT ISSUE COMPLAINT APPEALS

On January 20, 1999, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Ward - Aye.

- A. WILLIAM BILLINGSLEY, Case No. 97-0761
Issue: The appellant's eligibility for Staff Services Manager II (Supervisory) class was not considered by several departments.

ACTION: GRANTED

DISMISSAL CASE

- * DARLENE MCDONALD, Case No. 98-0951
ACTION: DISMISSED - Appellant withdrew her appeal.

11. REQUEST TO FILE CHARGES CASES

On January 20, 1999, the Board took the following actions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Carpenter, Ward - Aye.

- A. PETITIONER: Elizabeth Feller and Robert Feller, private citizens
ACTION: DENIED
- B. PETITIONER: Duane Hill, Vice President, Administration and Finance, Ed Fund (a service of the California Student Aid Commission)
ACTION: GRANTED
- C. PETITIONER: Grayling Mitchell, a patient at Atascadero State Hospital of the Department of Mental Health
ACTION: DENIED
- D. PETITIONER: Ron Wooten, an employee of the Department of Mental Health
ACTION: DENIED

12. NON-HEARING CALENDAR

On January 20, 1999, the Board adopted items A-F, with the exception of Item "B" which was withdrawn. These items were presented by Laura Aguilera, Acting Chief, Personnel resources and Innovation Division, California State Personnel Board.

VOTE: Bos, Carpenter, Ward - Aye.

- A. ADOPTIONS CASE WORKER/SUPERVISOR SERIES

ADOPTIONS CASE WORKER

ADOPTIONS SPECIALIST

SENIOR ADOPTIONS CASE WORKER

The Department of Social Services proposes revisions to the series specification of Adoptions Case Worker/Supervisor re-titling and revision of the Adoptions Case Worker class into the deep class of Adoptions Specialist; consolidation of the Senior Adoptions Case Worker and reallocation of incumbents into the Adoptions Specialist deep class; establishment of Alternate Range Criteria 399; extension of the probationary period to 12 months for the Adoption Specialist class; and abolishment of the Senior Adoptions Case Worker.

B. WITHDRAWN

C. INDUSTRIAL SUPERVISOR, PRISON INDUSTRIES (DIGITAL SERVICES)

PRISON INDUSTRIES SUPERINTENDENT I (DIGITAL SERVICES)

PRISON INDUSTRIES SUPERINTENDENT II (DIGITAL SERVICES)

PRISON INDUSTRIES MANAGER (DIGITAL SERVICES)

Prison Industry Authority proposes to add the following parenthetical classifications to existing series specifications: Industrial Supervisor, Prison Industries (Digital Services), Prison Industries Superintendent I (Digital Services); Prison Industries Superintendent II (Digital Services); and Prison Industries Manager (Digital Services).

D. FIELD REPRESENTATIVE, SCHOOL ADMINISTRATION SERIES
ASSISTANT FIELD REPRESENTATIVE II, SCHOOL ADMINISTRATION (SPECIALIST)

ASSISTANT FIELD REPRESENTATIVE

BUS DRIVER TRAINING PROGRAMS SUPERVISOR

ASSISTANT FIELD REPRESENTATIVE I, SCHOOL ADMINISTRATION

ASSISTANT FIELD REPRESENTATIVE II, SCHOOL ADMINISTRATION (SUPERVISORY)

FIELD REPRESENTATIVE, SCHOOL ADMINISTRATION (SUPERVISORY)

The Department of Education proposes to revise the Field Representative, School Administration classification series including the series definition and minimum qualifications; to revise and re-title the class of Assistant Field Representative II, School Administration (Specialist) to Assistant Field Representative as a deep class with a twelve month probationary period; to establish the new class of Bus Driver Training Programs Supervisor with a twelve month probationary period; to

abolish the classes of Assistant Field Representative I, School Administration and Assistant Field Representative II, School Administration (Supervisory); and to place a Footnote 24 on the class of Field Representative, School Administration (Supervisory).

- E. ASSISTANT STEEL INSPECTOR
ASSOCIATE STEEL INSPECTOR (SPECIALIST)
STRUCTURAL STEEL INSPECTOR (NONDESTRUCTIVE TESTING)
LEAD STRUCTURAL STEEL INSPECTOR (NONDESTRUCTIVE TESTING)
ASSOCIATE STEEL INSPECTOR (SUPERVISOR)

The Department of Transportation is proposing revision of the Assistant Steel Inspector, Associate Steel Inspector (Specialist), Structural Steel Inspector (Nondestructive Testing) and Lead Structural Steel Inspector (Nondestructive Testing); a change in class title of the Associate Steel Inspector (Specialist) to Associate Steel Inspector; and abolishment of the Associate Steel Inspector (Supervisor) class and reallocation of incumbents to the Associate Steel Inspector class.

- F. CHIEF DEPUTY WARDEN, CORRECTIONAL INSTITUTION, C.E.A.
CHIEF DEPUTY ADMINISTRATOR, CORRECTIONAL PROGRAM, C.E.A.
DEPUTY REGIONAL ADMINISTRATOR

The Department of Corrections proposes to re-title the Chief Deputy Warden, Correctional Institution, C.E.A. class to Chief Deputy Administrator, Correctional Program, C.E.A. and to revise the classification specification to incorporate usage of the class in either a State correctional institution for adults as an operations chief or in a region of the State adult parole program as a Deputy Regional Administrator.

13. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

- B. CEA POSITION ACTIONS APPROVED BY DPA AND APPROVED OR DENIED BY SPB MANAGEMENT

- (1) DEPUTY SUPERINTENDENT FOR CHILD, YOUTH & FAMILY SERVICES

The Department of Education's proposed allocation of one position to the CEA category to perform the duties of the above position has been approved.

- (2) CHIEF, CHILDREN & ADULT SERVICES
The Department of Mental Health's proposed allocation of one position to the CEA category to perform the duties of the above position has been approved.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. PUBLIC HEARING TO RECEIVE ORAL AND WRITTEN INPUT ON REGULATIONS ON PERSONAL SERVICES CONTRACTS. (Hearing held September 1, 1998.)

NO ACTION

2. DEBORAH STALEY, CASE NO. 97-3226. Appeal from dismissal. Department of Food and Agriculture. (Oral argument held October 6, 1998.)

NO ACTION

3. JUDY MCGUIRK, CASE NO. 97-4120. Appeal from dismissal. Department of Developmental Services. (Oral argument held October 6, 1998)

NO ACTION

4. DORIS JONES, CASE NO. 97-5107. Appeal from constructive medical termination. Department of Transportation. (Oral argument held November 5, 1998.)

NO ACTION

5. JESSE BROWN, CASE NO. 98-0384. Appeal from medical termination. Department of General Services. (Oral argument held November 5, 1998.)

NO ACTION

6. ROBERT DAVIS, CASE NO. 97-2572. Appeal from dismissal. Department of Corrections. (Oral argument held November 5, 1998.)

NO ACTION

7. LEANNE R. CALIGIURI, CASE NO. 98-1236. Appeal from dismissal. State Board of Equalization. (Oral argument held December 8, 1998.)

NO ACTION

8. NHUT MING NGUYEN, CASE NO. 98-0304. Appeal from 30 working days suspension. Department of General Services. (Oral argument held December 8, 1998.)

NO ACTION

9. BARBARA J. RIESS, CASE NO. 98-1004. Appeal from rejection. Department of Corrections. (Oral argument held December 8, 1998.)

NO ACTION

10. EARL T. BRYANT, JR., CASE NO. 98-0849. Appeal from demotion. Department of the Youth Authority. (Oral argument held December 8, 1998.)

NO ACTION

11. KEVIN JACKSON, CASE NO. 98-0075. Appeal from dismissal. Department of Mental Health. (Oral argument held December 8, 1998.)

NO ACTION

12. SUSAN ALEXANDER, CASE NO. 97-0100. Appeal from constructive medical termination. Department of Fish and Game. (Oral argument held December 8, 1999.)

NO ACTION

13. ADMINISTRATIVE PROGRAMS "DEEP" CLASSES. (Hearing held December 10, 1999.)

NO ACTION

14. LINDA J. GRIER, CASE NO. 97-3213. Appeal from medical demotion. Department of Health Services. (Oral argument held January 5, 1999.)

NO ACTION

15. CHRISTINE RUELAS, CASE NO. 36860. Appeal from medical termination. State Board of Control. (Written argument presented January 5, 1999.)

NO ACTION

16. CHARLES T. COOK, CASE NO. 97-4596. Appeal from dismissal. Employment Development Department. (Oral argument held January 5, 1999.)

NO ACTION

17. JANET E. MOOREHEAD, CASE NO. 97-1989. Appeal from 60-calendar day's suspension. Department of Corrections. (Oral argument held January 5, 1999.)

NO ACTION

18. MICHAEL D. BUNNELL, CASE NO. 96-2675. Appeal for determination of back salary, benefits, and interest after reinstatement. Department of Corrections. (Oral argument held January 5, 1999.)

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted
The preceding resolution at its meeting on January 20, 1999.

WALTER VAUGHN
Executive Officer
State Personnel Board

VOTE: Bos, Carpenter, Ward - Aye.